**Court No. 3**

Criminal Revision No. 802 of 2001 (Old No. 186 of 1989)

Chandra Mohan Barthwal and others ……...Revisionists

Versus

State of Uttaranchal and another ……Opposite parties

**Hon'ble Irshad Hussain, J.**

Heard Sri Narayan Dutt, learned counsel for the revisionist and Sri Navneet Kaushik, learned counsel for the respondent no.2.

This is a criminal revision under section 397/401 of the Code of Criminal Procedure, 1973 against the judgment and order dated 31.1.1989 passed by the Sessions Judge, Uttarkashi in criminal case no. 16 of 1987, whereby the appeal preferred by these revisionist against the order of conviction dated 18.12.1987 as recorded by the CJM in criminal case no. 448/1986 under section 147/448 IPC was affirmed and the appeal was dismissed.

It was the case of the complainant that Smt. Bimla Devi had succeeded in civil proceedings in respect of plot no. 2836 and the efforts of the revisionist to have the decree executed did not bear any fruits. On 10.3.1986 when Smt. Bimla Devi had gone to Dehradun, the revisionists took forcibly possession of her property and continued to be so. The finding to this effect was recorded by the learned CJM on appreciation of the evidence adduced in the case. The revisionists were thus convicted under section 147 and 448 of the IPC. Instead of passing order of any sentence they were however extended benefit of probation of First Offenders Act. The learned CJM also resorted to proceed under the provision of 456 of the Cr.P.C. thereby directing the revisionists to handover the possession of the house and plot no. 2836 and building constructed thereon the Smt. Bimla Devi.

The appeal was preferred by the revisionist and the learned Sessions Judge, Uttarkashi re-assessed the entire evidence but found that the appreciation of the same has been made by the learned CJM in proper prospective thereby drawing inferences in favour of the complainant. The

learned Judge therefore did not find any infirmity in the judgment of the learned CJM and dismissed the appeal. The learned Sessions Judge also affirmed the direction as given under Section 456 of the Cr.P.C. and directed the police to restore the possession of plot no. 2836 and building existing thereon as was directed by the learned CJM by its order dated 18.12.1987.

In view of above, it is evident that there is absolutely no perversity in the appreciation of the evidence by the courts below. In fact, there have been concurrent findings against the revisionists as regards the offences committed by them and therefore there being no merit in this revision, the same is liable to be dismissed.

The revision is hereby dismissed.

**(Irshad Hussain, J.)**

Dated 31.10.2003
Rawat